

RULEMAKING NOTICE FORM

Notice Number _____

Rule Number Env-A 2100

1. Agency Name & Address:

**Dept. of Environmental Services
P.O. Box 95
Concord, NH 03302-0095**

2. RSA Authority: **RSA 125-C:4, I(a)**

3. Federal Authority: **N/A**

4. Type of Action:

Adoption _____

Amendment _____

Repeal **X**

Readoption _____

Readoption w/amendment **X**

5. Short Title: **PARTICULATE MATTER AND EMISSION STANDARDS**

6. (a) Summary of what the rule says and the effect of the rule on those regulated:

The existing rules, Env-A 2100, *Process, Manufacturing and Service-Based Industries*, were intended to establish particulate matter and visible emission standards for any source not specifically regulated under other rules in subtitle Env-A. The proposed amendments are intended to clarify the applicability of the rules, clarify the formulas for calculating emission rates, and repeal now unneeded provisions. Specifically, the Department proposes to change the title of this chapter to Particulate Matter and Visible Emission Standards. Particulate matter emission standards would apply to any source or device not specifically regulated under other subtitle Env-A rules and that has a stack or exhaust and ventilation system. Visible emission standards would apply to any source or device not specifically regulated under other ARD rules. Those changes should make it easier for the regulated community to determine whether they are subject to this chapter.

Also, in Env-A 2103.02 the formulas for calculating the maximum allowable particulate matter emission rate are based upon the process weight rate. The existing rule references process weight rates in two different sets of units, tons per hour (tons/hr) and pounds per hour. To make the rule easier to read and understand, the Department proposes to change all the nomenclature to one consistent unit, tons/hr. These clarifications do not change any emission limits.

Finally, the Department proposes to repeal Env-A 2104, Env-A 2105, and Env-A 2106. These are descendants of rules originally promulgated in 1973 as part of historical attempts to control emissions of toxic air pollutants. Since then, the Department has promulgated Env-A 1400, which establish health-based ambient air limits for approximately 800 toxic substances. All of the pollutants historically covered by Env-A 2104, Env-A 2105, and Env-A 2106 are now covered by Env-A 1400. The Department believes that Env-A 1400 is a more appropriate method of controlling emissions of toxic air pollutants and that Env-A 2104, Env-A 2105, and Env-A 2106 now only present additional requirements which do not afford any additional protection to human health or the environment.

6. (b) Brief description of the groups affected:

The proposed rule affects any owner or operator of a stationary source or device that (1) is a source of particulate matter emissions discharged through a stack or exhaust and ventilation system and is not specifically regulated under other division rules and (2) is a source of visible emissions and is not specifically regulated under other division rules.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Provision of the Proposed Rule	Specific State Statute the Rule is Intended to Implement
Env-A 2101 through 2103 (existing Env-A 2102 repealed, existing Env-A 2103 and 2107 renumbered as Env-A 2102 and 2103)	RSA 125-C:4, I(a)
Env-A 2104 through 2106 and Env-A 2108 (repealed)	RSA 125-C:4, I(a)

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name:	Sheri Eldridge-Banack	Title:	ARD SSMB Planning Specialist
Address:	Dept. of Environmental Services P.O. Box 95 Concord, NH 03302-0095	Phone #:	271-0880
		Fax#:	271-7053
		E-mail:	sbanack@des.state.nh.us
	The proposed rule can be viewed and downloaded at http://www.des.state.nh.us/ard/prpsdrul.htm .	TTY/TDD Access:	Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Monday, September 27, 2004 at 4:00 pm**

☒ Fax ☒ E-mail ☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **September 15, 2004, 9:00 am**
Place: **NH Dept. of Environmental Services
Room 114
29 Hazen Drive
Concord, NH 03301**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 04:122 , dated July 2, 2004

Fiscal Impact Statement for Department of Environmental Services rules governing Particulate Matter and Visible Emission Standards. [Env-A 2100]

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):
There are no costs attributable to either the proposed or existing rules.
2. Cite the Federal mandate. Identify the impact on state funds:
There is no Federal mandate for these rules. However, these rules incorporate part of the State Implementation Plan which has been approved by the US Environmental Protection Agency pursuant to the Federal Clean Air Act. 42 U.S.C. Section 7410. No impact on state funds.
3. Cost and benefits of the proposed rule(s):
There are no costs associated with the proposed rule because, even If the existing rule were allowed to expire, affected sources would still be required to comply with the federal rule that incorporates it at 40 CFR 52.1520.
 - A. To State general or State special funds:
None.
 - B. To State citizens and political subdivisions:
None.
 - C. To independently owned businesses:
None.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

There are no political subdivisions currently subject to the proposed rules. Therefore, the proposed rules do not violate Part I, Article 28-A of the New Hampshire Constitution, because they do not assign any new, modified, or expanded programs or responsibilities to political subdivisions of the state in such a way as to necessitate additional local expenditures.